

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
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Th10.5a



January 23, 2009

TO: Coastal Commissioners

FROM: Charles Lester, North Central Coast District Director

RE: **Appeal A-2-MAR-09-001** (Biondi, CP-07-34), 9 Charlotte's Way, Muir Beach, Marin County. Filed: January 15, 2009. 49 Days: March 5, 2009.

Recommendation: Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeal A-2-MAR-09-001 was filed. Staff recommends a **YES** vote on the following motion & resolution:

***Motion & Resolution.** I move that the Commission determine and resolve that: Appeal Number A-2-MAR-09-001 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.*

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. The local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Findings: On December 9, 2008, Marin County approved the construction of a 1,160 square foot one-bedroom house in Muir Beach, including a 3-car parking deck, tree and other vegetation removal, drainage system, and landscape screening (see Exhibit 1). Pursuant to Coastal Act section 30603, this approval is appealable to the Commission because it is located between the sea and the first public road paralleling the sea. Appellant Collier claims that this approval is inconsistent with LCP requirements in the Muir Beach Community Plan concerning small-scale community character and protection of neighboring private views. Appellant also claims inconsistency with Coastal Act section 30251 protecting scenic resources. Finally, appellant claims inconsistencies with the LCP based on impacts to the natural environment, including vegetation and habitats (see Exhibit 2).

Coastal Act section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.¹ Commission staff has analyzed the County's Final Local Action Notice for the development (Exhibit 1), appellant's claims (Exhibit 2), and the relevant requirements of the LCP (Exhibit 3). The appeal raises no

¹ The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues, or those of regional or statewide significance.



substantial issue with respect to the LCP as follows. First, the claim under Coastal Act section 30251 is not a basis for appeal under Coastal Act section 30603 but even if it was, there are no significant public visual resources affected by the County approval (see below).

Second, the Marin County Board of Supervisors found that the project was consistent with the LCP and specifically the Muir Beach Community Plan because it would not adversely impact the surrounding built environment regarding views from the adjacent properties, privacy for the property or surrounding properties, vehicle access, or due to conflicts with building design and bulk (Exhibit 1). The proposed development is small (1160 sq. ft.). As described by the County's findings, the new structure is "modest," with a height (25 ft) and bulk proportionate to the 10,000 sf site. The height is consistent with the maximum height requirement for Muir Beach (Exhibit 3). It would provide adequate setbacks from surrounding properties (15 feet on the north side, 14 feet in the front). The house would be located in the upper portion of the property and not result in adverse visual effects to surrounding properties, including appellant Collier's lot to the north. The exterior materials would be unobtrusive gray and charcoal colors for the siding ("Wood Moss" Hardiplank) and roof and black clad windows that blend into the hillside. The County also found that the building design would blend into and compliment the surrounding natural and built environments. The Commission concurs that no significant public views, which are protected by the LCP, would be impacted by the development. Nor does the development raise any significant concerns with respect to compatibility with the surrounding built environment. The County is requiring the planting of landscaping visual screen along the north side of the property.

With respect to habitat and tree removal issues, although the project will remove some native vegetation in the development footprint, no sensitive species or habitats have been identified by the County on the site or in the immediate vicinity. In addition, the tree removal required for the development conforms with a vegetation management plan approved by the Fire Department that specifies the removal of seven trees in part to provide a defensible space.

Overall, the County has provided factual and legal support for its decision (Exhibit 1). As summarized above, the extent and scope of the approved development is small. There are no significant coastal resources affected by the decision, and no adverse precedent will be set for future interpretations of the LCP. Finally, the appeal does not raise issues of regional or statewide significance.

For the reasons stated above, the Commission finds that Appeal Number A-2-MAR-09-001 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.



CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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www.coastal.ca.gov

**NOTIFICATION OF APPEAL PERIOD**

DATE: January 6, 2009
TO: Neal Osborne, Planner
County of Marin, Community Development Agency
3501 Civic Center Drive, #308
San Rafael, CA 94903-4157
FROM: Ruby Pap, District Supervisor *RP*
RE: **Application No. 2-MAR-08-066**

Please be advised that on January 2, 2009 our office received notice of local action on the coastal development permit described below:

Local Permit #: CP 07-34, CP-08-24

Applicant(s): Beverly Biondi; William W. Kirsch

Description: To construct a 1,355 square foot one-bedroom residence on a 10,000 square foot lot. It includes the removal of seven pine trees, the use of fire-safe Hardiplank siding, fire sprinklers, and Class A roof shingles. To provide three vehicular turnouts along Charlotte's Way, a 1,130-foot-long private acces and utilities easement that serves 5 existing residences.

Location: 9 Charlotte's Way, Muir Beach (Marin County) (APN(s) 199-251-58)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on January 16, 2009.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Beverly Biondi
William W. Kirsch

POST CERT No.: 2-MAR-08-066

Date Received: 1/2/09

POST-CERT PERMIT

Initial Notice

Appealable to CCC

Final Notice

Not Appealable to CCC

Call city/county to see if local appeal has been filed?

Is final notice deficient?

CCC appeal period starts: 1/5/09

ends: 1/16/09

RECEIVED

JAN 02 2009

CALIFORNIA
COASTAL COMMISSION

MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF FINAL LOCAL (BOARD OF SUPERVISORS) DECISION

Pursuant to Coastal Act Section 30603(d), Coastal Commission Regulations Section 13571, and LCP Policy and/or Implementation Plan.

December 26, 2008

**California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105**

Attention: Coastal Planner

Applicant's Name: Beverly Biondi
Coastal Permit Number: CP-07-34
Assessor's Parcel Number: 199-251-58
Project Location: 9 Charlotte's Way, Muir Beach
Determination: Approved With Conditions
Decision Date: December 9, 2008

Local review is now complete.

This permit is appealable to the California Coastal Commission (see Marin County Code Section 22.56.080)

Any correspondence concerning this matter should be directed to Neal Osborne, Planner at 499-7173.

Sincerely,

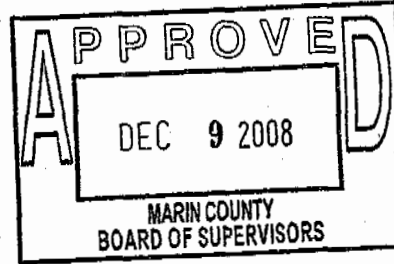


Neal Osborne
Planner

DEC 24 2008

MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

BRIAN C. CRAWFORD, DIRECTOR



December 9, 2008

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Biondi Appeal from the Planning Commission's grant of the Collier Appeal and denial of the Biondi Coastal Permit and Design Review for a proposed single-family residence at 9 Charlotte's Way, Muir Beach

Dear Board Members:

RECOMMENDATION: On behalf of the Planning Commission, staff recommends that the Board deny the Biondi Appeal and sustain the Planning Commission's action to grant the Collier Appeal and deny the Biondi Coastal Permit and Design Review.

SUMMARY: On October 27, 2008, the Planning Commission voted (4-2) to grant the Robin Collier Appeal and deny the Beverly Biondi Coastal Permit and Design Review for construction of a 1,355 square foot single-family residence at 9 Charlotte's Way. The Planning Commission denied the project based on findings that the location and design of the residence would interfere with Mr. Collier's privacy, sunlight, and views; that two on-site parking spaces would be inadequate; and that the on-site drainage system on a steep slope should be modified to an off-site system with dispersal onto Sunset Way (refer to Attachment 7).

Basis of Appeal: On October 29, 2008, Beverly Biondi filed a timely appeal of the Planning Commission's decision, asserting that the Planning Commission made incorrect findings in granting the appeal and denying the project. The appeal asserts that the single-family residence, parking, and drainage, are well designed for the proposed location (refer to Attachment 6).

Additionally, on November 20, 2008, the applicant submitted a revised project proposal for consideration by the Board of Supervisors that includes design changes to address issues raised by the Planning Commission (refer to Attachment 4). The modifications include reducing the size of the residence from 1,355 square feet to 1,160 square feet, increasing the setback on the north side property line from 3 feet to 15 feet, adding one additional on-site parking space, and modifying the drainage system to discharge directly onto Sunset Way (refer to Attachments 1, 2, 3, 4, 5, 7, and 11).

Response to Appeal: The Planning Commission made its decision to grant the appeal and deny the project based on factual evidence in the administrative record and the inability to make affirmative Design Review findings because the single-family residence would be too close to the north side property line, would not have adequate on-site parking, and would not have an adequate drainage system. The height, size, and location three feet from the adjacent Collier lot would not be compatible with the character with the surrounding neighborhood, and would have potential privacy, sunlight, and visual effects to the adjacent property. The Planning Commission made an informed decision after review of the administrative record, including the Deputy Zoning Administrator's approval of the project, additional correspondence, and

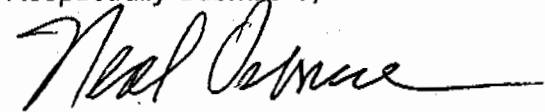
public testimony. The Planning Commission held a public hearing and discussed the merits of the project before a decision was made. The decision to grant the appeal and deny the single-family residence was based on the complete record.

A revised project alternative from what the Planning Commission reviewed has been submitted for the Board's consideration. The revised design proposal was submitted in response to the Planning Commission's redesign recommendations and would result in a single-family residence in substantial conformance with the community character, with adequate property line setbacks, improved on-site parking, and drainage improvements. In staff's opinion, the modifications resolve the issues which resulted in the Planning Commission being unable to make affirmative findings to approve the original project.


CONCLUSION: The Planning Commission's decision to grant the Collier Appeal and deny the Biondi Coastal Permit and Design Review was properly based upon a project with legitimate environmental, public health, safety, and welfare interests, and was consistent with the Countywide Plan, the Local Coastal Program, and Marin County Code.

However, should your Board find that the revised project alternative satisfactorily addresses the issues raised by the Planning Commission and is consistent with the Countywide Plan, the Local Coastal Program, and the requirements of the Zoning Ordinance, an alternative resolution sustaining the appeal and approving the revised project alternative is included for your consideration (refer to Attachment 2).

Respectfully Submitted,


Neal Osborne
Planner

Reviewed By:


Brian C. Crawford
Director

- Attachments:
1. Resolution denying the Biondi Appeal and sustaining the Planning Commission's denial of the Biondi Coastal Permit and Design Review
 2. Alternative Resolution granting the Biondi Appeal, overturning the Planning Commission's decision, and approving the revised Biondi Coastal Permit and Design Review proposal with conditions
 3. Department of Public Works memorandum, 11/24/08
 4. Community Development Agency Fifth Transmittal (with Revised Plans), 11/21/08
 5. LTD Engineering, Inc. letter, 11/19/08
 6. Biondi Petition for Appeal, 10/29/08
 7. Planning Commission Minutes and Resolution, 10/27/08
 8. Robin Collier letter, 10/24/08
 9. Bridger Mitchell letter, 10/22/08
 10. Deputy Zoning Administrator Minutes, 12/14/89

The following Attachment was presented to the Board of Supervisors only. A copy is available upon request and may be reviewed in the Community Development Agency, Planning Division office during regular business hours, Monday through Friday from 8:00 A.M. to 4:00 P.M..

11. Planning Commission Staff Report, 10/27/08

REVIEWED BY:

- Auditor Controller
 County Counsel
 Human Resources

- N/A
 N/A
 N/A

RESOLUTION NO. 2008-139

**A RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
GRANTING THE BIONDI APPEAL,
OVERTURNING THE PLANNING COMMISSION'S GRANT OF THE COLLIER APPEAL,
AND APPROVING THE BIONDI COASTAL PERMIT AND DESIGN REVIEW
WITH CONDITIONS**

**ASSESSOR'S PARCEL 199-251-58
9 CHARLOTTE'S WAY, MUIR BEACH**

SECTION 1: FINDINGS

- I. WHEREAS, Beverly Biondi submitted an application for Coastal Permit and Design Review for a proposal to construct a 1,355 square foot one-bedroom residence on a 10,000 square foot lot. The proposed residence would have a height of 24.5 feet as measured from finished exterior grade. The residence would have the following setbacks from corresponding property lines and access easement: 12 feet front easement (west), 3 feet side (north), 40 feet side (south), and 49 feet rear (east). The residence would be finished with Hardiplank exterior siding and dark-colored shingle roofing. The Marin County Fire Department approved the Vegetation Management Plan with the removal of seven pine trees, the use of fire-safe Hardiplank siding, fire sprinklers, and Class A roofing. The applicant also proposes to provide three vehicular turnouts along Charlotte's Way, a 1,130-foot long private access and utilities easement that serves 5 existing residences and is improved as a substandard common driveway with 9-foot to 12-foot widths. An existing, unpermitted residence would be demolished prior to construction of the proposed new residence. The subject property is located at 9 Charlotte's Way, Muir Beach, and is further identified as Assessor's Parcel 199-251-58.
- II. WHEREAS, the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 28, 2008, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS, the Marin County Deputy Zoning Administrator determined the project would meet the requirements of development consistent with the standards in Unit I of the Marin County Local Coastal Program that are in effect for the Muir Beach community, made affirmative findings for a Coastal Permit and Design Review, and approved the project with modified conditions of approval including the allowance of the existing as-built residence to remain in use until May 15, 2009.
- IV. WHEREAS, Robin Collier filed a timely Petition for Appeal of the Deputy Zoning Administrator's conditional approval on September 5, 2008 asserting that the project would result in adverse effects to his property and the future planned development of a single-family residence and accessory structures pursuant to his interpretation of the required Design Review findings in Marin County Code (MCC) Section 22.82.040I as stated below:

Mr. Collier asserted that the project would not properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood because it would not have adequate setbacks from the north side and front of the Biondi lot. The proposed location of the residence would create severe incompatibility with an approved accessory development envelope on Mr. Collier's lot, adjacent to the north. The proposed location of the residence would be incompatible with the placement of all other structures on Charlotte's Way, which have much greater setbacks from the edge of the access easement.

Mr. Collier asserted that the proposed development would impair, or substantially interfere with the development, use, or enjoyment of other properties in the vicinity, including but not limited to, light, air, privacy, and views, or the orderly development of the neighborhood as a whole, including public lands and right-of-way. The proposed development will directly, or cumulatively, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way. The proposed development would substantially impair the development of the Collier lot adjacent to the north, on the only portion of the lot where views of the coastline are available, in a location of an approved accessory building envelope. The proposed location of the residence, three feet from the north side property line, with a 24.5-foot unbroken height, would create a shear wall at the property line blocking views and sunlight, and impacting privacy of the approved building envelope.

Because of conditions imposed in the subdivision of the lot in 1990, which restricted the development to designated building envelopes, there are not alternative locations on the Collier lot that would enjoy the same quality of views and with the same southern exposure for sunlight. Conditions requiring a redesign of the second story of the proposed residence could easily allow movement of its mass to the south, allowing a stepped design with much less visual impact to both the side of the lot and the front of the lot. Alternatively, the total size of the proposed building could be reduced to allow better setbacks.

In addition, the failure to require the required two guest parking spaces on the Biondi lot would impact parking vehicles associated with the use of the Collier property, by forcing Biondi's guests to park on the frontage of the Collier property (and be towed away for doing so), or losing the opportunity to allow guests of Collier to park along the frontage of the Collier property. The guest parking along the frontage of the Collier lot would create visual impacts and impair the development of the Collier property in the future. This is essentially a taking of property rights without compensation. The proposed development must either provide the guest parking on their own property off of the Charlotte's Way easement, or within the easement directly in front of their property. Alternatively, Biondi could reduce the size of the building so that these guest parking spaces would not be needed, as would be required for a typical second unit, which only requires two parking spaces, and not the four spaces required for a larger single-family residence as proposed.

Mr. Collier stated in his August 28, 2008 letter, and as documented by recorded easement deeds, the portion of Charlotte's Way that runs on the west side of the Collier lot only enjoys an easement for ingress and egress, and not for parking, and has never been offered for dedication to the County. Mr. Collier does not desire to make it a parking lot, and certainly will not allow that the County's approval of this proposal to take it for parking without compensation. While the Deputy Zoning Administrator's decision to modify the conditions of approval and direct the developer to remove the note "Guest Parking" from the plans, it did not solve the parking requirement for Biondi's or Collier's guests. The County cannot make the required findings in MCC Sections 22.82.0401 1.a, b, and c without addressing this issue.

The proposed development will not minimize or eliminate adverse physical or visual effects that might otherwise result from unplanned or inappropriate development, design, or placement. Adverse effects include those produced by the design and location characteristics of the following:

The area, heights, mass, and scale of the structure will not match the existing structure for the reasons outlined above; the proposed structure would not match the impact either of the existing structure or others along Charlotte's Way.

Drainage systems and appurtenant structures will be modified substantially because the proposed dispersal drain for runoff from the roof areas would be directed away from its broad dispersal over the whole lot, and directed right into a major slide area, which extends into the Collier lot to the north. As stated in the Collier letter of August 28, 2008, the applicant has a drainage easement for conveying drainage offsite to Sunset Way and Cove Lane for much safer dispersion of runoff. The whole hillside below Charlotte's Way has experienced three major slides in the last 40 years, two of which were in areas where the stability was impacted by septic systems, much like the proposed drainage dispersal system. A finding of compliance for MCC Section 22.82.0401 F.2 cannot be made without a requirement to take the roof water away from this slide prone area.

Areas, paths, and rights-of-way for the containment, movement, or general circulation of animals, conveyances, persons, vehicles, and watercraft will be adversely affected because the failure to provide guest parking would impact the easement holders of Charlotte's Way for ingress and egress. The proposed spaces, which the applicant has been directed to remove from the plans, would have been directly blocking appellant's planned guest parking and access to a planned garage within the approved development envelope. This objection to the guest parking had nothing to do with any proposed driveway, which would be completely impossible to place where staff asserted in the County's findings, as was made clear in the Collier letter of August 28, 2008. The plants noted in this finding are not wetlands plants and are part of the Collier plantings of purchased native plants made in the 1990s.

This finding continues to imply that the applicant's guests have a right to park on the Collier property, which they do not, but does not address where the applicant's guest parking would be located. Conditions must be imposed either to provide the parking not on the Collier property, or to reduce the building size so that it would not be required.

The project will result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties because as previously noted, the proposed building would significantly block sun and light exposures, views, vistas, and privacy to appellant's adjacent property to the north. A redesign including moving of the mass of the building to the south, or reduction in size of the building would reduce this impact.

The design, location, size, and operating characteristics of the proposed use will be detrimental to the public interest, health, safety, convenience, or welfare of the County because the failure to address the parking and drainage issues would create public safety issues to the adjacent Collier lot and the general public.

Objections to the terms of Deputy Zoning Administrator's draft Conditions of Approval 3, 5, 6, 20, and 32 (the numbering of draft Conditions of Approval 20 and 32 were modified in the adopted Resolution to Conditions of Approval 21 and 31):

3. The failure to require the removal of the existing un-permitted and illegal structure as soon as possible will be hazardous to the whole community and does not meet the requirements for allowing Design Review rather than adherence to standards setbacks, since these are only allowed on an empty lot.
5. The removal of the "Guest Parking" label from the plans without addressing the need for guest parking fails to address public safety and code requirements and is a dangerous precedent to future development in similar sites.

6. This condition fails to require drainage of roof runoff to be taken down to Sunset Way and Cove Lane drainages to protect the Collier property and those living below but instead places part of it in the slide area below the dispersal drain.
19. (draft 20) The terms of this condition on tree removal may conflict with Collier's existing rights in a recorded view easement over the Biondi property, and if so, cannot be made without compensating appellant and also without voiding the parking easement on which the applicant is depending for their own parking.
31. (draft 32) This condition implies that the applicant must maintain a space 30 feet to 100 feet from the structure free of trees which since the building is sited three feet from the Collier lot, extended into the Collier property and includes trees on the Collier property.

The basic requirements for allowing Design Review are not met since the Deputy Zoning Administrator's approval findings in the section showing consistency with the Countywide Plan state:

Section 1.IV.B. The proposed project would result in the construction of additions and improvements to an existing single-family residence.

Thus, the staff confirms the proposal is not for an empty lot, as would be required for the waiving of setbacks through Design Review. This is further acknowledged by the fact that the applicant is allowed to continue use of the existing illegal single-family residence for 8½ months, until May 15, 2009.

The project also would not be consistent with the adopted Muir Beach Community Plan because:

It will adversely impact the surrounding natural environment relative to vegetation, species habitats or on-site drainage. The vast removal of native trees and the failure to provide safe drainage of roof and parking runoff to Sunset Way is clearly inconsistent.

It does not provide adequate off-street parking, since it does not provide the guest parking required by the size of the building.

It would adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, access from Ahab Drive, and building design, mass and bulk.

The findings for the proposed project are not consistent with the mandatory findings for Design Review approval (MCC Section 22.82.040i) in regard to the following items:

The proposed development will not be properly and adequately landscaped with maximum retention of trees and other natural features and will not conserve non-renewable energy and natural resources.

The analysis of the vegetation on the lot is not accurate, and ignores the removal of numerous other native trees, including mature "Ray Hartman" *Ceanothus* and other varieties of *Ceanothus* and Coffeeberry trees that presently screen the existing cabin from above and below, thus not representing the extensive removal of the total number of trees by the development. There is no screening vegetation provided between the house and from Charlotte's Way, now used as a walking and running trail, and which is now well screened by the existing native trees. No screening of the house is provided for the Collier lot to the north. Additionally, by its closeness to the lot line, the house would block sunlight to potential solar panels on any proposed accessory structure in one of the only southern locations on the entire Collier lot, which is mostly sun blocked by nature of its mostly northerly exposure.

Most of the design problems could be solved by reduction in the size of the proposed building and by moving the mass to the south. Of particular concern is that the building will likely be expanded internally by walls to create additional bedrooms (such as raising the proposed office wall) and externally by enclosure of deck space thus even more impacting parking and septic loads. This has been a consistent pattern within Muir Beach with virtually no enforcement to abate such illegal additions. A new building should at least start out meeting the required parking requirements, rather than being allowed to provide half of what should be required.

- V. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on October 27, 2008, to consider the merits of the appeal and the project, and hear testimony in favor of, and in opposition to, the appeal and the project.
- VI. WHEREAS, the Marin County Planning Commission, by a 4 to 2 vote, granted the Collier Appeal and denied the Biondi Coastal Permit and Design Review based on findings that the project's design and location would result in adverse effects to the surrounding neighborhood including privacy, sunlight, views, parking, and drainage.
- VII. WHEREAS, on October 29, 2008, Beverly Biondi filed a timely Petition for Appeal of the Planning Commission's decision asserting that the Planning Commission's findings for granting the Collier Appeal were incorrect. The appeal asserts that the project's setbacks, drainage, and parking impacts to adjacent properties regarding privacy and views, etc. are appropriate and the Deputy Zoning Administrator's findings should have been upheld, and the Collier Appeal denied.
- VIII. WHEREAS, on November 20, 2008, Beverly Biondi submitted a revised project alternative for consideration by the Board of Supervisors that includes redesign recommendations made by the Planning Commission during the October 27, 2008 hearing. The revised plans include a 1,160 square foot single-family residence with 15-foot north side and 14-foot front property line setbacks; a maximum height of 25 feet above grade; a parking deck for three vehicles on site, and a fourth guest parking space on site; a landscape screen along the north side property line; and a closed drainage system through the drainage easement on the adjacent downslope property at 300 Sunset Way with drainage dispersal on Sunset Way. The residence would be finished with "Wood Moss" color hardiplank exterior siding, grey composition shingle roofing, wood frame and galvanized metal mesh deck railings, and black metal clad windows.
- IX. WHEREAS, the Marin County Board of Supervisors held a duly noticed public hearing on December 9, 2008, to consider the merits of the Biondi Appeal, the project, and the revised project proposal, and hear testimony in favor of, and in opposition to, the appeal and the projects.
- X. WHEREAS, the Marin County Board of Supervisors finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303(a) of the CEQA Guidelines because the construction of the single-family residence on the subject property would not result in significant environmental impacts.
- XI. WHEREAS, the Marin County Board of Supervisors finds that the revised project is consistent with the Marin Countywide Plan because:
 - A. The proposed project would result in development that would conform to the governing standards for community compatibility related to building location;
 - B. The proposed project would comply with governing development standards related to drainage; and

C. The proposed project would not cause adverse effects to traffic, parking, and circulation.

XII. WHEREAS, the Marin County Board of Supervisors finds that the revised project is consistent with the Muir Beach Community Plan because:

A. The revised project would not adversely impact the surrounding natural environment relative to vegetation, species habitats, and on-site drainage;

B. The revised project would provide adequate off-street parking with four parking spaces proposed on site; and

C. The revised project would not adversely impact the surrounding built environment regarding views from adjacent properties, privacy for the subject and surrounding properties, access from Ahab Drive and Charlotte's Way, and building design, and bulk.

XIII. WHEREAS the Marin County Board of Supervisors finds that the revised project is consistent with the requirements and objectives of the Local Coastal Program, Unit I (§22.56.1301 of the Marin County Code) as described below.

A. Water Supply:

The Muir Beach Community Services District will be able to serve water to the subject property and has reviewed and recommended approval of the proposed project.

B. Septic System Standards:

Marin County Environmental Health Services regulates individual sewage disposal systems in the area of the subject property. Marin County Environmental Health Services has reviewed and recommended approval of the proposed project.

C. Grading and Excavation:

The subject property is 50% slope to 140%+ slope and minor excavation for utility lines, foundation footings, piers, the septic system, and retaining walls would result in less than 150 cubic yards of excavation and fill. All grading and excavation work would be subject to the review and approval of the Department of Public Works, Land Use and Water Resources Division, to ensure consistency with Marin County requirements of Best Management Practices.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of archaeological sensitivity. However, the minor excavation proposed would not likely disturb cultural resources because most of the site has previously been developed. Project approval requires that in the event cultural resources are discovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate protection measures.

E. Coastal Access:

The project is located more than ¼-mile inland of the Pacific Ocean at an elevation of approximately 470 feet above sea level and would not impede coastal access.

F. Housing:

The proposed project would result in the removal of an unpermitted residential building that provides housing opportunities for people of low or moderate income, but the construction of a 1,160 square foot residence would replace the illegal residence with an up-to-code residence and would not affect the availability of housing stock within the Muir Beach community.

G. Stream Conservation Protection:

The project site is not located near a creek or in an area subject to the streamside conservation policies of the Marin Countywide Plan or Local Coastal Program.

H. Dune Protection:

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is located in an area of sensitive wildlife resources. Also, review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is located adjacent to the habitat area for the federally listed endangered Monarch Butterfly (Danaus plexippus). However, the project will have minimal impact to the habitat value of the known habitat area because it involves the construction a single-family residence within the existing developed area of Muir Beach more than ½-mile from known nesting trees.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is not located in the habitat area for rare, threatened, or endangered plant species. In addition, the relatively small-scale project on previously disturbed property would not have an adverse impact on the habitat of native plant communities.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline, and the proposed project would not result in adverse effects to the shoreline. The project would not require additional shoreline protection.

L. Geologic Hazards:

The project site is located within 3-miles of the San Andreas Fault Zone and would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency - Building Inspection Division will determine seismic compliance with the Uniform Building Code. In addition, as a condition of project approval, the applicant shall execute and record a waiver of liability holding the County, other governmental agencies and the public, harmless of any matter resulting from the existence of geologic hazards or activities on the subject property or in the region.

M. Public Works Projects:

The proposed project does not entail expansion of public roads, flood control projects, or utility services.

N. Land Division Standards:

No land division is proposed as part of this project.

O. Visual Resources:

The location, design, 25-foot maximum height, and the use of dark exterior colors including "Wood Moss" color Hardiplank siding, grey composition roof shingles, wood frame and galvanized metal mesh railings, and black metal clad windows would blend into the surrounding environment compatible with the visual resources available to the public and to surrounding properties including the Collier lot adjacent to the north.

P. Recreation/Visitor Facilities:

The project site is not governed by VCR (Village Commercial Residential) zoning project would not substantially affect recreation or visitor facilities in the Muir Beach community.

Q. Historic Resource Preservation:

The existing residence on the subject property, that would be demolished, was constructed within approximately the last 30 years to 40 years, but is not historically significant.

XIV. WHEREAS, the Marin County Board of Supervisors finds that the revised project is consistent with the mandatory findings for Design Review approval (Marin County Code Section 22.82.0401) as described below.

A. It is consistent with the Marin Countywide Plan and the Local Coastal Program as stated in Section XI and Section XII of this Resolution.

B. The proposed structure will properly and adequately perform or satisfy its functional requirements without being unsightly or create a substantial disharmony with its locale and surroundings

The removal of the existing unauthorized residence and construction of the proposed new single-family residence would result in a modest structure with a height and bulk proportionately appropriate to the site, and would provide adequate setbacks from the north side property line and surrounding properties. The project would be located in the upper portion of the property and would not result in adverse visual effects to surrounding properties including the Collier lot adjacent to the north. The exterior materials would be primarily unobtrusive gray and charcoal colors for the siding and roof, and black metal clad windows that would blend into the hillside landscaping without substantial visual effects.

- C. It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way.

Construction of the revised single-family residence would conform to permitted uses in the C-RA:B4 zoning district that governs the subject property and would be situated solely on the subject property. The project would be located in the upper portion of the property and the 15-foot north side setback and 25-foot maximum height would not result in adverse visual effects. As modified by a condition of approval to move the driveway parking space to the north 7 feet, the 3 parking spaces on the proposed on-site deck, and the 1 guest parking space on the driveway and parking easement, would provide full compliance with the parking standards in Marin County Code Sections 24.04.330 through 24.04.400 for a single family residence. The 4 parking spaces would include 2 independently accessible parking spaces for safe access, resident and guest parking, and would not interfere with the potential future development of adjacent properties along Charlotte's Way. The width of the driveway to 11 Charlotte's Way would not be adversely affected by the proposed parking spaces with the maintenance of a minimum clear width of 12 feet.

- D. It will not indirectly, or in a cumulative fashion, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way.

The project would be located in the upper portion of the property and would not result in adverse effects to potential future investments in the vicinity, especially on the adjacent Collier property.

- E. It will be properly and adequately landscaped with maximum retention of trees and other natural material.

The proposed single-family residence would minimize tree removal and conform to the Vegetation Management Plan approved by the Fire Department that specifies the removal of 7 trees. The relatively small 1,160 square foot residence would minimize the demand for natural resources for construction and during its use as a single-family residence with one bedroom. The project would locate on the upper portion of the site near the access road to minimize grading and vertical expansion down the steep hillside. This design concept would minimize visual effects with a two-story residence located horizontally on the hill and screened by existing mature pine trees and proposed screening shrubs along the north side property line. Solar access and light to portions of the Collier property adjacent to the north would not be substantially affected by the proposed structures and landscaping.

Seven large pine trees will be removed to accommodate the project and provide a defensible space pursuant the Marin County Fire Department's approval of a Vegetation Management Plan. This amount of tree removal would represent approximately 39% of the trees on the site with 11 trees to be saved (5 pines, 2 redwood, 1 cypress, and 2 eucalyptus trees). The applicant proposes no replacement trees to maintain a defensible space and conform to the Vegetation Management Plan. Planting replacement trees on site is infeasible due to the number of existing trees and the space requirements for the new septic system. Staff recommends a condition of approval to require the on-site milling for lumber of the large pine trees removed, to be used in the construction of the

project. The applicant should utilize the wood from the trees removed for construction purposes or some other useful purpose (e.g., raised planter beds). The logs should be milled on site to minimize transportation impacts and used on site or in a construction project in the local community.

F. It will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or juxtaposition. Adverse effects may include, but are not limited to, those produced by the design and location characteristics of:

1. the scale, mass, height, area and materials of buildings and structures.

The project would minimize potential adverse visual impacts because it would be constructed of building materials that include "Wood Moss" Hardiplank siding, grey composition roof shingles, wood frame and galvanized deck railings, and black metal clad windows that would blend in to the environmental setting on a highly visible hillside, and would blend into and compliment the surrounding natural and built environments.

2. drainage systems and appurtenant structures;

The proposed single-family residence would minimize drainage alterations and avoid a steep hill with a closed drainage system through an easement on the downslope property with a dispersal system onto Sunset Way. Based on a letter report from Glenn Dearth, Civil Engineer with LTD Engineering, Inc., the conceptual stormwater drainage plan with dispersal onto Sunset Way into the community drainage system along Sunset Way is feasible. The Department of Public Works has not raised any issues with the proposed drainage system.

3. cut and fill or the reforming of the natural terrain, and structures appurtenant thereto such as retaining walls and bulkheads;

The proposed single-family residence would minimize grading and excavation, and other adverse physical effects on the natural environment. The subject property is 50% slope to 140%+ slope and minor excavation for utility lines, foundation footings, piers, the septic system, and retaining walls would result in less than 150 cubic yards of excavation and fill. All grading and excavation work would be subject to the review and approval of the Department of Public Works, Land Use and Water Resources Division, to ensure consistency with Marin County requirements of Best Management Practices.

4. areas, paths, and rights-of-ways for the containments, movement or general circulation of persons, animals, vehicles, conveyances, and watercraft.

The 4 parking spaces on site would not interfere with traffic circulation or guest parking on Charlotte's Way, and would not interfere with safe access, guest parking for neighbors, and potential future improvements on the Collier property. The parking spaces, as modified by conditions of approval, would comply with Marin County Code Sections 24.04.330 through 24.04.400.

5. other developments or improvements which may result in a diminution or elimination of sun and light exposure, views, vistas, and privacy;

The design of the project would be compatible with other potential future residential buildings in the vicinity, and would not adversely affect views from other properties in the vicinity. The residence would not adversely affect the existing light or privacy of surrounding properties because it would have a maximum height of 25 feet above existing grade and would be adequately set back 15 feet from the north side property line, with a landscape screen proposed along the north side property.

- G. It may contain roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood (Ord. 2641, 1981; Ord. 1611, Section 1 (part), 1967).

The 1,160 square foot, two-story, single-family residence would be of compact design with efficient use of understory space on a steep hill. The residence would comply with the energy efficiency standards in the California Energy Code (Title 24) as reviewed during the Building Permit review and approval process. The design of the project shall comply with the Green Building standards and as proposed would have a Gold rating based on 118 points as indicated on the submitted New Green Building Residential Design Guidelines checklist for this project.

- XV. WHEREAS the Marin County Board of Supervisors finds that the bases for the Biondi Appeal can be sustained for the revised project proposal, and overturns the Planning Commission's decision to grant the Collier Appeal and deny the project, and approves the revised Biondi Coastal Permit and Design Review proposal, based on the following factors:

Bases of Appeal:

As stated in Section VII and Section VIII above, the appeal alleges that the location and design of the proposed residential development proposed for the Biondi property would fit into the character of the Charlotte's Way neighborhood and would not result in view and privacy impacts, or guest parking problems within the Charlotte's Way easement along the frontage of the Collier lot; and would not interfere with Collier's use of Charlotte's Way; would not cause potential slope instability from stormwater runoff; and would not block solar exposure to the Collier lot adjacent to the north.

The applicant responded to the recommendations for a redesign of the project to better conform to the surrounding community in the revised project alternative proposal submitted for consideration by the Board of Supervisors. The revised plans indicate a 1,160 square foot single-family residence with 15-foot north side, and 14-foot front, property line setbacks; a maximum height of 25 feet above grade; a parking deck for three vehicles on site, and a fourth guest parking space on site; a landscape screen along the north side property line; and a closed drainage system through the drainage easement on the adjacent downslope property at 300 Sunset Way with drainage dispersal on Sunset Way. The residence would be finished with "Wood Moss" color hardiplank exterior siding, grey composition shingle roofing, wood frame and galvanized metal mesh deck railings, and black metal clad windows.

Response to Appeal:

The development of the subject 10,000 square foot lot is subject to Design Review as a "legally vacant" property that has less than 50% of the minimum one acre (43,560 square feet) lot area required by the C-RA:B4 zoning district standards pursuant to MCC Section 22.82.025I. The lot is also less than 50% of the minimum one acre size required for vacant lots with greater than 40% average slope pursuant to the Lot-Slope Regulations in MCC Section 22.73.010I. Even if the as-built cabin were legally constructed, because the proposal includes the removal of this structure, the property would become vacant after removal of the cabin. For planning new development on this lot, the removal of the cabin defines the lot as a "vacant" lot subject to Design Review, if the lot size is less than 50% of the minimum lot size required.

On March 28, 2005, the Community Development Agency approved the Biondi Certificate of Compliance (CC 04-4) with four conditions of approval. Condition of Approval 2 of this Certificate of Compliance requires Design Review and a Coastal Permit for development of the subject property pursuant to Marin County Code Sections 22.82.025I and 22.56.040I.

The adopted Deputy Zoning Administrator's findings in DZA Resolution 08-143 contain typographical errors in Findings IV.B. and V.A. that were not corrected during staff editing of the document. However, the facts are that pursuant to County development and zoning codes, the subject property is considered vacant because the County did not grant an entitlement for construction of the existing as-built cabin and over the last 30 years has not been collecting property tax revenues on this structure.

The revised design proposal submitted on November 20, 2008, for the residence, parking, and drainage would meet all of the Marin Countywide Plan policies, Local Coastal Program regulations, and Marin Code Title 22 (Interim) requirements for location and design because the revised project would not have adverse effects on privacy, views, drainage and slope stability, and parking in the surrounding community. The location of the residence 14 feet from the Charlotte's Way easement and 15 feet from the side (north) property line on a very steep 50% (to 140% plus) slope downhill lot would minimize grading and site disturbance for construction activities, access to the site, parking, and development of residential uses on the site. The project would comply with the intent of the Single-family Residential Design Guidelines for a hillside lot and the Development Standards for a small residence within a Planned District pursuant to Section 22.16. The maximum height of 25 feet would comply with the 25-foot height limit and would not obstruct important scenic views in the neighborhood because the maximum height is parallel to the contours on the downslope side of the residence, and the relatively small 1,160 square foot residence would limit the bulk and overall level of disturbance on the lot.

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, LET IT BE RESOLVED, that the Board of Supervisors grants the Biondi Appeal, overturns the Planning Commission's decision to deny the Biondi Coastal Permit and Design Review, and approves the revised Biondi Coastal Permit (CP 07-34) and Design Review (DR 07-45) application, subject to the following conditions:

1. Pursuant to Marin County Coastal Zoning Code Sections 22.56.130I, 22.82.040I, this Biondi Coastal Permit (CP 07-34) and Design Review (DR 07-45) approval permits the construction of a 1,160 square foot one-bedroom residence on a 10,000 square foot lot. The approval permits a residence with a maximum height of 25 feet as measured from finished exterior grade. The approval permits the residence with the following setbacks from corresponding property lines and access easement: 14 feet front easement (west), 15 feet side (north), 40.5 feet side (south), and 49 feet rear (east). The approval permits "Wood Moss" color Hardiplank exterior siding and dark grey composition shingle roofing pursuant to the Marin County Fire Department approved Vegetation Management Plan that includes the removal of seven pine trees, fire sprinklers, and Class A roofing. The approval permits the construction of three vehicular turnouts along Charlotte's Way that comply with the 60-foot minimum length standard in Marin County Code as approved by the Marin County Fire Department, Public Works, and Planning Division staff. The approval permits the construction of small retaining walls within the Charlotte's Way right-of-way to stabilize soil and the proposed parking deck, driveways, and parking pad. The subject property is located at 9 Charlotte's Way, Muir Beach, and is further identified as Assessor's Parcel 199-251-58.
2. Except as modified herein, plans submitted for a Building Permit for the approved project shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division, identified as Exhibit A-1, "Biondi Residence" consisting of four sheets prepared by Fran Halperin, Halperin & Christ Architects, one sheet prepared by Michael E. Ford, Land Surveyor, two sheets prepared by William W. Kirsch, Architect, and one sheet prepared by Questa Engineering Corporation, date stamped November 20, 2008; and Exhibit B-1, "Biondi Residence, Color and Materials Board".
3. BEFORE APRIL 15, 2009 AND BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE NEW RESIDENCE, the applicant shall obtain a Demolition Permit from the CDA Building and Safety Division, and any other required permits, such as a hazardous materials containment permit (J Number) from the Bay Area Air Quality Management District for the deconstruction, removal, and recycling/reuse of the existing unpermitted residence. BEFORE MAY 15, 2009, the applicant shall remove the existing residence from the site, stabilize any disturbed soil areas with jute netting, and straw rolls and blankets, or other Best Management Practices as approved by the Department of Public Works (DPW), and submit photographs to the Planning Division to verify removal of the structure and stabilization of the soil.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Design Review Conditions of Approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit one copy of revised plans for review and approval that include all of the design revisions required in this and following conditions to replace Exhibit A-1 as "approved and revised Exhibit A-1". Provide a revised color chip for the windows that is more in the brown color range comparable to the color of the wood deck and railings, and more complementary to the "Wood Moss" siding color.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit one copy of a revised Site Plan, Floor Plan, and Elevation Plan for review and approval from the Director that indicate removal of the deck and patio doors from the northern façade of the residence. Small replacement windows will be considered for approval on the northern façade if they are energy efficient and have no appreciable potential for privacy impacts to neighbors.

7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit two copies of a revised Site Plan for review and approval by the Marin County Fire Department, and Planning Division staff that indicates native, non-pyrophytic, evergreen landscaping shrubs for a visual screen along the north side property line. The shrubs shall be low height to provide a privacy screen and to minimize blocking neighbors' views of the Pacific Ocean and coastline. The selected plants shall be drought-tolerant and well suited for the soil and microclimate of the northeast aspect hillside. The indigenous location, the quantity, the size at planting, the size at maturity, the scientific name, and the common name shall be indicated in the legend or notes. The six Myoporum laetum plants proposed are specifically not approved.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit two copies of a revised Site Plan with the boundary of the Charlotte's Way access and utilities easement, and the parking easement on the Collier property shown, and a revised parking plan for review and approval by the Department of Public Works and Planning Division staff, that indicates four on-site parking spaces with two independently accessible parking spaces in full conformance with Marin County Code Sections 24.04.330 through 24.04.400.
9. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit four copies of a drainage plan with dispersal onto Sunset Way prepared by a licensed professional civil engineer for review and approval of the Department of Public Works, the Planning Division, the Environmental Health Services Division, and the Muir Beach Community Services District. It is recommended that on-site cisterns, trickle drains, and energy dissipaters including pelton wheels and turbines for renewable power generation be included in the drainage plan.
10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit detailed plans of the three proposed turnouts of 60-foot maximum length including two 10-foot transitions along Charlotte's Way for review and approval from the Fire Department, DPW, and Planning staff, that indicate any necessary retaining walls (likely to be no more than 3 feet tall but with a surcharge) and drainage improvements in conformance with Best Management Practices. The applicant should discuss entering into a formal Private Road Maintenance Agreement with the other property owners that have access from Charlotte's Way, and other property owners in the vicinity that are affected by the stability and maintenance of Charlotte's Way. Potential maintenance includes the placement of additional clean rock rip rap downslope of the three existing drainage culvert outfalls for energy dissipation and erosion prevention.
11. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by landslides, earthquakes, and other geologic actions. The Waiver of Public Liability shall be submitted to the Director for review and approval before recordation.
12. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in Condition 1 above, the applicant shall install temporary construction fencing around the dripline of the existing trees to be saved in the vicinity of any area of tree removal, log milling, trenching, excavation, grading, construction, materials storage, soil stockpiling, materials storage, or other construction activity. The construction fence is intended to protect existing trees during construction and shall remain in place until all construction activity is complete. The applicant shall submit a copy of the plan of temporary fence design and location, and site photographs confirming installation of the fence to the Community Development Agency, Planning Division.

13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a "Certified" or better rating under the Marin Green Home: New Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Certified" or better rating. It is strongly recommended that the project include its own renewable energy power supplies including but not limited to solar thermal, photovoltaics, and small hydroelectric from stormwater runoff.
14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front (southwest) and north side property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building locations and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used by the Building and Safety Inspection staff to definitely measure building locations in relationship to property lines.
15. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification submit a written (stamped) building height survey confirming that the buildings conform to the roof ridge elevations (a maximum of 25 feet above grade at 497 feet asl) that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
16. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Certified" or better rating under the Marin Green Home: New Green Building Residential Design Guidelines.
17. Before issuance of a Building Permit, these Conditions of Approval shall be recorded against the title of the property.
18. All flashing, metal work and trim shall be an appropriately subdued, non-reflective color and all exterior lighting shall be the minimum lumen intensity for safety purposes only, downward directed, and hooded.
19. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
20. All soil disturbed by development of the project shall be reseeded with native, non-pyrophytic, groundcover or adequately stabilized with approved Best Management Practices prevent soil erosion.
21. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
22. No trees, except those approved for removal with this project, shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent safety hazards to people and property.
23. Any new utilities proposed to serve the approved project shall be underground.

24. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
25. All construction activities shall comply with the following standards:
- a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday.** No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
 - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
26. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Biondi Coastal Permit and Design Review for a 1,160 square foot one-bedroom residence, for which action is brought within the applicable statute of limitations.
27. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Use and Water Resources

28. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:

- a. The plans shall be reviewed and approved by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter. Due to the submitted Stability Report being 3 years old, the letter shall also address that no geotechnical changes have occurred since the report of Salem Howes Associates, dated February 13, 2004.
- b. A registered Engineer shall design all new site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
- c. A separate Building Permit is required for site/driveway retaining walls with a height more than 4 feet (or 3 feet when backfill area is sloped, or has a surcharge).
- d. Submit Erosion and Siltation Control Plans.
- e. Due to the severity of the terrain, the proposed main structure drainage diversion around the leach field shall be approved and verified by the Marin County Environmental Health Services Department.
- f. Provide details on the drainage plan for the perforated subsurface drainage system to be installed on uphill side of the foundation, as per the LTD Engineering, Inc. letter of November 19, 2008.
- g. Provide the documentation of a recorded easement for the drainage system extending to Sunset Way via parcel 199-251-59.
- h. No portion of any structure shall extend into the Charlotte's Way right-of-way.
- i. The proposed parking does not meet the minimum requirements under Marin County Code Section 24.04.355(c) for a minimum of two independently accessible parking spaces.

Marin County Environmental Health Services

29. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall satisfy requirements of Chapter 18.06 in County of Marin Code to obtain an on-site sewage disposal construction permit from Environmental Health Services that is adequate for the proposed project.

Community Development Agency – Green Building Program

30. The applicants should maintain the natural drainage patterns on the site and utilize native, drought tolerant, and fire-resistant landscaping for erosion prevention due to the project's location on a steep hillside in the ecologically sensitive coastal zone. Plants native to northern coastal California should constitute a significant portion of the landscaping palette.
31. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must resubmit a signed copy of the New Green Building Design Guidelines Checklist marking each item with the point value claimed. Additionally, each item claimed on the Checklist should be indicated on the design plans where appropriate and applicable.

Marin County Fire Department

32. Fire Department access is acceptable as proposed. The applicant shall provide an emergency vehicle clear zone such that vegetation adjacent to driveways and access roads shall be cleared to a minimum of 15 feet vertically (no exceptions) and 10 feet horizontally (no exceptions – first 5 feet). Note that if a gate is contemplated, Fire Department approval for gates on the access road and/or driveway is required. If the gate is locked in any fashion, a MCFD Knox rapid entry system is mandatory.
33. A defensible space zone (minimum of 30 feet to 100 feet) and vegetation management plan is required. At a minimum, the vegetation management plan must contain a site plan showing the existing vegetation (including existing trees) and those proposed to be added and/or removed, the proposed structures with their defensible space zone delineated, plant types, and spacing. The vegetation management plan must also contain a list of proposed plants that are consistent with an approved (non-pyrophytic) plant list. Please see the Marin County Fire Department Prevention Bureau Defensible Space Standard, which may be downloaded from our web site (www.marincountyfire.org).
34. BEFORE FRAMING, the defensible space must be in place. Annual maintenance is required! Trees shall not be planted in a location that, when mature, said trees will contact overhead power lines. No pyrophytic plants shall be planted within 30 feet of the structure.
35. During the fire season, firewood must be stored inside a fully enclosed structure, or stored a minimum of 30 feet away from any building.
36. The LPG tank location must be approved by the Fire Department. Seismic bracing, seismic shutoff device or excess flow device per Marin County Building and Safety Division standards is required and must be maintained. The minimum defensible space requirement must be maintained – no combustible materials within 15 feet of any part of the tank.
37. Residential Sprinkler System (design approval and site inspection by the Marin County Building and Safety Division). As part of the sprinkler system installation, a spare sprinkler head cabinet containing two spare sprinkler heads, and the applicable sprinkler head wrench will be required prior to final approval of the sprinkler system.
38. Class "A" roofing design approval and site inspection by the Marin County Building and Safety Division.
39. Smoke detectors shall be installed in accordance with the Uniform Building Code.
40. BEFORE FOUNDATION INSPECTION, the Fire Department shall determine that defensible space is provided. Fire Department holds will be placed on the Building Permit for this project. The defensible space must be in-place prior to releasing the Fire Department foundation inspection hold. The Marin County Building and Safety Division will not inspect the foundation before the fire department has released the hold. The final hold will be lifted when all Fire Department requirements are met, including payment of all required fees. Please allow lead-time to schedule your Fire Department inspections to prevent any delay in your project.

SECTION 3: VESTING

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the revised Biondi Coastal Permit (CP 07-34) and Design Review (DR 07-45) approval by obtaining a Demolition Permit to deconstruct and remove the existing residence before May 15, 2009, and obtaining a Building Permit and substantially completing all of the approved construction work before December 9, 2010. All rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and it is approved. Requests for an extension to the time limits specified therein may be granted administratively by the Community Development Agency staff, for good cause, such as delays beyond the applicant's control. Time extensions to vest the approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.82.130 I and Section 22.56.120 I of the Marin County Code

SECTION 4: ADOPTION

ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 9th day of December 2008, by the following vote:

AYES: SUPERVISORS: Steve Kinsey, Harold C. Brown, Jr., Judy Arnold, Susan L. Adams, Charles McGlashan

NOES: NONE

ABSENT: NONE



CHARLES F. McGLASHAN, PRESIDENT
BOARD OF SUPERVISORS

ATTEST:



CLERK

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
 45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE (415) 904-5280 FAX (415) 904-5400

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Robin Collier

Mailing Address: HCR 74 Box 21912

City: El Prado, NM

Zip Code: 87529

Phone: 575-758-9791

SECTION II. Decision Being Appealed**R E C E I V E D**

1. Name of local/port government:

JAN 15 2009

County of Marin

CALIFORNIA
 COASTAL COMMISSION

2. Brief description of development being appealed:

Application of Beverly Biondi for a Coastal Permit to build a 1160 sq foot house and parking deck at 9 Charlotte's Way in Muir Beach, Marin County. and remove 7 large trees and numerous other smaller native trees.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

9 Charlotte's Way, Muir Beach, Sausalito, CA 94965. The assessors parcel number is 199-251-58

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-MAR-09-001

DATE FILED: 1/15/09

DISTRICT:

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: Dec. 9, 2008

7. Local government's file number (if any): CP 07-34 CP-08-24

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Beverly Biondi
86 The Tides Court
Brewster, MA 02631

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)
Barbara Schoenfeld, PO Box 359, San Quentin, CA 94964-0359

Ted Marshall & Sharon Mullin, 21 Cove Lane, Muir Beach CA 94965

(2)
Larry and Judy Yamamoto, 11 Charlotte's Way, Muir Beach, CA 94965

Fran Halperin, Architect, 617 C Street, San Rafael, CA 94901

(3)
Grant Barbour, 24 Valley Circle, Mill Valley, CA 94941

Kathy Johnson, 226 Sunset Way, Muir Beach, CA 94965

(4)
Leighton Hills, 209 Suset Way, Muir Beach, CA 94965

Steven Shaffer, 240 Pacific Way, Muir Beach, CA 94965

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I own the acre lot, 47 Charlotte's Way, just north of the proposed development and have lived in Muir Beach since 1959.

The project in question was first approved by the Marin County Deputy Zoning Administrator. I subsequently appealed the decision to the Marin County Planning Commission which sustained my appeal and denied the Coastal Permit. The applicant appealed that decision to the Marin County Board of Supervisors with a new design, slightly reduced size and an increase of side setback from 3 to 15 ft. The Board approved the project with some conditions. I am appealing that decision.

The project would not conform to The Coastal Act because it is inconsistent with the adopted Muir Beach Community Plan (MBCP) which is incorporated into the Marin County Local Coastal Plan (LCP) on Page 79 of LCP Unit I adopted in 1980.

Page 12 of the MBCP states:

This community plan adopts the county regulations governing lot size and setbacks now in effect. We are concerned with the often destructive effects of new construction and remodeling of homes, which are not consistent with the small-scale residential character of the old community. Future construction and remodeling should be consistent with surrounding residences and show consideration for neighboring views and privacy.

It is inconsistent with the LCP and the MBCP because:

It would adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, and building design, mass and bulk.

Additionally it is inconsistent with the section 30251 of the Coastal Act, which states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas...

Unlike all other development along Charlotte's Way, which are set far back from the street and away from side property lines, this development is right on the street and only 15 ft from my

property line. Charlotte's Way is used frequently by joggers & walkers with many good views of the cove and coast, which would be blocked by the new building. While the new design approved by the Board of Supervisors was an improvement over the one denied by the Planning Commission, adding a parking deck for the 4 required parking spaces, and taking the roof run off down to Sunset way, it still does not meet the standard 20 ft side setback and still greatly impacts my views, privacy and sun in the location where I plan to build a studio, the only location on my property where I have coastal views and sun.

The new design moves her 2nd story much farther east into my view of the coast and further blocks my sun. The roof height of the 2nd story, while conforming to the 25 ft height limit, is unnecessarily high (with an interior height of 14 ft) given its closeness to my property line, and could be stepped or lowered to reduce its impact on my views and sun. Additionally, I showed several ways the house could be moved south to increase the set back to my property line, which would also reduce the impact to my coastal view and sun.

It is also inconsistent with the Coastal Act, the LCP and the MBCP because:

It will adversely impact the surrounding natural environment relative to vegetation and species habitats.

The vast removal of native trees is clearly inconsistent with the MBCP. Because the house is being just 14 ft from Charlotte's Way, 5 mature native trees (ceanothus, wax myrtle and coffeeberry), which previously screened the existing cabin from the street, must be removed for the parking deck. Because of the requirements of the fire department, 7 other mature trees will or already have been removed and no native replacements are being required. Additionally, the applicant in cutting down some of trees on the property has spread many feet of wood chips over large areas obscuring native vegetation and killing any that might exist.

An additional issue raised by the Marin County Planning Staff while reviewing the Biondi application was a claim that a wetland plant was found on my property, and it was asserted that therefore a full investigation of a potential wetland would have to be undertaken before I could do any development on my property, even though I have no development application before the county.

I subsequently identified the plant as *Juncus patens*, which occurs equally in wet and dry areas in California. The swale in question where this was found does not have any other characteristics of a wetland and had previously been approved for a septic leach field with nearly perfect percolation rates and 15 ft of top soil. At the Planning Commission hearing, planner Neal Osborne stated unequivocally that the plant was not found on the Biondi property.

Subsequently on the weekend before the hearing before the Board of Supervisors, I observed and photographed numerous occurrences of *Juncus patens* right next to the proposed building site on the Biondi property and along a path to the site. Additionally a *Ribes* species occurs on the Biondi property. I submitted the photos of the *Juncus* and a letter to Mr. Osborne but he did not investigate or take any action on this potential issue, nor did he present my letter & photos to the Board of Supervisors. I presumed this would mean that he would drop the issue for me, yet after the approval of the Biondi Appeal when I inquired he still asserted that my property would require a wetlands investigation. I appeal to the Coastal Commission to resolve this unfair and unequal treatment of the two properties. Either both of the properties should be

investigated for wetland designation, or the fact that *Juncus patens* isn't a definite wetland indicator, should free both from wetlands consideration.

In contrast to the full hearing, with numerous questions and discussion given my appeal to the Marin County Planning Commission, which denied the Coastal Permit, the hearing before the Board of Supervisor was extremely perfunctory, with few questions asked by the members.

After planning staff had told me that the rules would be the same as the Planning Commission, where I was given 10 minutes to present, the Board chair told me I had only 3 minutes to do so, and when I protested he only extended it to 5 minutes, so I was unable to present many of my points. It was clear the Board had agreed in advance, either by Board custom or ex-parte communication, to defer to the recommendations of Supervisor Steve Kinsey, whose district encompasses the development location. I appeal to the Coastal Commission to give me a chance to a fair hearing on the issues I have raised.

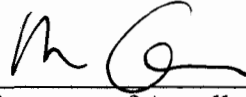
I will be submitting additional materials to further document the issues I have raised.

Robin Collier

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: January 15, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: January 15, 2009

22.57.040I C-R-A--Coastal residential, agricultural districts.

22.57.041I Purpose. The purpose of this district is to provide for residential use, combined with small scale agricultural activities, subject to specific development standards.

22.57.042I Principal Permitted Uses. The following uses are permitted in all C-R-A districts:

1. Single-family residence;
2. Small livestock farming; provided, that not to exceed one horse, or one cow, or one hog, or three sheep, or three goats, or other similar livestock may be kept for each twenty thousand square feet of area of the lot, to a maximum of three horses, or three cows, or three hogs, or six sheep, or six goats or other similar livestock maintained on any one lot;
3. Crops, horticulture, nurseries and greenhouses;
4. Accessory buildings;
5. Home occupations; and
6. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.043I Conditional Uses. The following uses are permitted in all C-R-A districts, subject to securing a use permit in each case:

1. Public and private stables and riding academies;
2. Sale of agricultural products produced on the premises;
3. Public parks and playgrounds;
4. Buildings for the sale of agricultural and nursery products;
5. Schools, libraries, museums, churches, retreats, noncommercial tennis courts, and day child-care centers for seven or more children;
6. Dog kennels;
7. Livestock farming exceeding three cows or three horses or three hogs or six sheep;
8. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms.

22.57.044I Design Standards. Building site area and width; building setbacks, height and floor area ratio shall comply with the standards listed in Section 22.57.200I, "Design standards table."

22.57.045I Exceptions. Any parcel of land with an area of less than seven thousand five hundred square feet, and/or with an average width of less than sixty feet, which was under one ownership on September 2, 1938, which owner thereof owned or has owned no adjoining land and provided that no succeeding owner has owned adjoining land, or which parcel is shown as a lot on any subdivision map or land division or parcel map or record of survey which was recorded after approval of the map in the manner provided by law, may be used as a building site for one-family dwelling by the owner of such parcel of land or by his successor in interest, provided that all other regulations for the district, as prescribed in this title, shall be complied with; provided further, that in lieu of the foregoing building site area regulations in any C-R-A district, in which there are also applied the regulations of any B district under the provisions of this title, each one-family dwelling with its accessory buildings, hereafter erected, shall be located on a building site, in one ownership, having an area not less than specified for such B district. In no case, however, shall there be more than one dwelling on any one lot. (Ord. 2884 § 4 (5, 6), 1985; Ord. 2637 § 6 (part), 1981)

22.57.200I Design standards table.

The following design standards shall apply in the respective coastal districts:

Zone District	Building Site Requirements Lot Area	Setbacks Average Width	Floor area: Front	Floor area: Side	Floor area: Rear	Height	Ratio
C-R-A	7,500 sq. ft.	60 ft.	25 ft. lot depth ¹	6 ft.	20%	25 ft.*	30%
C-H-1	7,500 sq. ft.	60 ft.	-	-	-	25 ft.*	-
C-R-I	7,500 sq. ft.	60 ft.	25 ft. lot depth ¹	6 ft.	20%	25 ft.*	30%
C-R-2	7,500 sq. ft.	60 ft.	25 ft. lot depth ¹	6 ft.	20%	25 ft.*	30%
C-VCR	7,500 sq. ft.	60 ft.	0 ft.	5 ft.	15 ft.1	25 ft.*	-

1 Maximum rear yard setback of 25 feet.

* Height limit in Stinson Beach Highlands shall be seventeen feet.

2 Commercial uses in C-VCR districts have no side and rear setbacks required.

(Ord. 2637 § 6 (part), 1981)

22.57.201I Regulations for B districts.

In any C district which is combined with any B district, the following design standard regulations, as specified for the respective B district, shall apply.

Zone District	Building Site Requirements		Setbacks			
	Lot Area	Average Width	Front	Side	Rear	Height
B-D	1,750 sq. ft.	35 ft.	10 ft.	5 ft.*	10 ft.	20 ft.
B-1	6,000 sq. ft.	50 ft.	25 ft.	5 ft.*		
B-2	10,000 sq. ft.	75 ft.	25 ft.	10 ft.		
B-3	20,000 sq. ft.	100 ft.	30 ft.	15 ft.		
B-4	1 acre	150 ft.	30 ft.	20 ft.		
B-5	2 acres	150 ft.	30 ft.	20 ft.		
B-6	3 acres	175 ft.	30 ft.	20 ft.		

* Side setback on corner lots--minimum of 10 feet.

(Ord. 2703 § 19, 1982: Ord. 2637 § 6 (part), 1981)

on shorefront lots shall be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to minimize the need for protective works, to protect sandy beach habitat, and to provide a buffer area between private and public use areas in order to protect both the scenic and visual character of the beach, and the public right of access to the use and enjoyment of dry sand areas.

21. No additional subdivision of beachfront lots shall be permitted in recognition of the cumulative negative impacts such divisions would have on both public and private use of the beach, except if a finding is made that such a subdivision will be consistent with the above policy. Similarly, the erection of fences, signs, or other structures seaward of any existing or proposed development and the modification of any dune or sandy beach area shall not be permitted except as provided in Chapter III of the LCP in order to protect natural shoreline processes, the scenic and visual character of the beach, and the public and private use of dry sand areas in accordance with Section 30211 of the Coastal Act.

HABITAT PROTECTION

Coastal Communities

Various resource and habitat areas have generally been identified in the community plans for the Muir Beach, Stinson Beach, and Bolinas communities, as well as in a publication entitled: "Natural Resources of the North Central Coast Region" prepared in 1975 for the North Central Coastal Commission. They include:

Muir Beach. The Elizabeth Terwilliger Butterfly Trees are located at Pacific Way and Lagoon Drive and consist of a grove of introduced Monterey Pine Trees. Additional Butterfly Trees are located along both sides of Pacific Way and are one of the few local resting places for Monarch Butterflies on their yearly migration. These trees are reported to contain 60,000 to 70,000 butterflies from October through February (Berhnheim, 1973).

Stinson Beach. The Stinson Beach community contains many large cypress trees which also provide roosting habitat for the Monarch butterflies on their annual migration. In addition, there are significant stands of native bay trees as well as an alder grove at the juncture of Stinson Creek and Bolinas Lagoon.

Audubon Canyon Ranch. The Ranch contains approximately 1300 acres and supports a large egret and heron rookery in the redwood grove located in Audubon Canyon.

Bolinas. The Bolinas area contains several important habitats which have been identified in the Bolinas Community Plan and the document "Natural Resources of the North Central Coast Region". These habitat areas are described below.

Upland Grasslands: Shorebirds of many species forage on the grassy uplands during high tides and winter storms when suitable habitat at Bolinas Lagoon is unavailable. Limited grazing of these lands does not seem to affect the habitat value of these lands and may even tend

County of Marin Parks and Recreation Department personnel, impacts associated with human use have been greatly reduced. (Zeigler, 1978) The present level of protection and patrol coverage is adequately protecting the marine resources. The proposed expansion of the Point Reyes National Seashore to land south of the present boundary would include the north section of the Reef and would increase patrol activity by park service rangers to the least patrolled section. This will also reduce the possibility of deleterious land uses occurring on lands above the Reef.

LCP POLICIES ON HABITAT PROTECTION

22. Butterfly trees and other trees or vegetation identified on the natural resource maps on file with the Marin County Planning Department, which provide roosting and/or nesting habitat of wildlife, shall be considered major vegetation, and significant alteration or removal of such vegetation shall require a coastal project permit pursuant to Section 30106 of the Coastal Act. Such trees shall not be altered or removed except where they pose a threat to life or property.
23. Development adjacent to wildlife nesting and roosting areas shall be set back a sufficient distance to minimize impacts on the habitat area. Such development activities shall be timed so that disturbance to nesting and breeding wildlife is minimized and shall, to the extent practical, use native vegetation for landscaping.
24. Public access to these identified sensitive habitat areas, including the timing, intensity, and location of such access, shall be controlled to minimize disturbance to wildlife.
25. Fences, roads, and structures which significantly inhibit wildlife movement, particularly access to water, shall be avoided.
26. Upland grassland feeding areas shall be protected against any significant disruption of habitat values.
27. Use of Duxbury reef shall continue to be regulated in accordance with existing State laws. The area should continue to be patrolled by a representative of the County Parks and Recreation Department on a daily basis.
28. Invasive exotic plant species are proliferating in the Coastal Zone at the expense of native plants. In order to preserve indigenous native plant species within the Coastal Zone, development permits shall be conditioned, where applicable, to require the removal of any invasive, non-indigenous plant species such as Pampas Grass, Brooms, and Thistles.

AGRICULTURE

The issue of agricultural land use in Unit I can be examined at two levels. First, there are those larger land holdings historically mostly involved in grazing or other extensive agricultural operations. Such agricultural

20. Where development would adversely impact archaeological resources or paleontological resources which have been identified, reasonable mitigation measures shall be required as may be recommended by the field survey or by the State Historic Preservation Officer his/her designee. Such mitigation measures shall include acquisition of unique sites for long-term preservation where feasible, or preservation of the sites by incorporating them into open space areas protected by easement, or a requirement that the site be opened to an approved qualified professional and educational groups for scientific exploration for a specified period of time before development begins. Where construction is permitted, special construction techniques shall be employed to protect the resources intact and reasonably accessible underground.

Visual Resources

21. Existing development standards and the design review ordinance (Chapter 22.82) shall continue to be enforced. The following explicit standards shall apply to selected areas and projects:
- . All new construction in Bolinas, Stinson Beach and Muir Beach shall be limited to a maximum height of twenty-five (25) feet; except that in the Highlands neighborhood of Stinson Beach, the maximum height shall be seventeen (17) feet, and in the Seadrift section of Stinson Beach, the maximum height shall not exceed fifteen (15) feet.
 - . To the maximum extent feasible, new development shall not impair or obstruct an existing view of the ocean, Bolinas Lagoon, or the national or State parklands from Highway 1 or Panoramic Highway.

LCP POLICIES ON LOCATION AND DENSITY OF NEW DEVELOPMENT

This Section contains the land use/zoning proposals for Unit I and represents the basic element of the LCP. These proposals are based upon the County-wide Plan (1973), as supplemented by the three Community Plans adopted since 1975. Many of the LCP policies have been referenced to the appropriate sections of the Countywide and Community Plans to provide policy background material. The proposals contained herein use, for the most part, the land use policies of these Community Plans; therefore, the Community Plans are used as descriptive base references in describing the LCP policies. It should be clear, however, that based upon Coastal Act requirements, selected modifications to the land use policies and designations in the Community Plans are being proposed by the LCP. Where plans and policies of the local coastal program conflict with policies of local plans, the policies of the LCP shall govern. Maps showing the LCP land use designations are on file with the Marin County Planning Department.

Muir Beach

The Muir Beach LCP land use designations shall follow the Community Plan land use designations with the following modifications:

27. Redesignate residential lot size of parcels along Redwood Creek from 10,000 square feet to 1 acre minimum lot size. (See also Policy II-8).
28. Make no LCP recommendation for agricultural lands of over 60 acres. (See also Policy II - 29).

Stinson Beach (excluding Seadrift)

The Stinson Beach LCP land use designations are those identified in the adopted Community Plan except as modified below:

29. The existing R-2 zoning designation in Stinson Beach shall be retained in order to protect and maintain the existing character of the community, provided, however, that no development other than single-family residences shall be permitted on any parcel of less than 7,500 square feet in area in order to minimize septic tank problems and the cumulative impacts of such development on public access along Calle del Arroyo. All development within these zones shall conform with LCP policies on septic systems and housing. Repair or replacement of existing duplex residential use on a parcel of less than 7,500 square feet damaged or destroyed by natural disaster shall be permitted.
30. The properties presently Zoned R-3 along Shoreline Highway shall be rezoned to R-2 in order to minimize flood hazards and the adverse impacts on Easkoot Creek which would result from such development (Easkoot Creek runs across the subject properties). Redesignation of the R-3 properties to R-2 will also assure development consistent

The Elizabeth Terwilliger Butterfly Trees are located at Pacific Way and Lagoon Drive. This land, now owned by the Audubon Canyon Ranch, should be included in the Golden Gate National Recreation Area.

The Monterey pines on both sides of Pacific Way are one of the few local resting places for Monarch butterflies on their yearly migration. Property owners in that area are charged with protecting these trees and keeping them free from insecticides. The Muir Beach Community Services District has the same responsibility where these trees are on their easements.

The Circus House is located along Pacific Way on land owned by the Audubon Canyon Ranch. This land contains the portion of Redwood Creek bounded by Pacific Way, the Zen Center, and the Golden Gate National Recreation Area. It should be included in the Golden Gate National Recreation Area, with a lease-back of Circus House to the present tenants for their lifetimes.



MUIR BEACH COMMUNITY: RESIDENTIAL-AGRICULTURAL ZONING

There are 314 people now living at Muir Beach in 129 single-family homes. When the remaining 44 building sites are filled, there will be 173 homes.

The size of lots in Muir Beach ranges from 3,000 square feet to about ten acres. The present County zoning requires lots of a minimum size of 10,000 square feet in old Muir Beach and one acre in Seacape. Some parcels adjoining Seacape require a minimum of two acres per lot. Many undersized lots in both areas are legal but non-conforming building sites. This community plan adopts the county regulations governing lot size and setbacks now in effect.

We are concerned with the often destructive effects of new construction and remodeling of homes which are not consistent with the small-scale residential character of the old community. Future construction and remodeling should be consistent with surrounding residences and show consideration for neighboring views and privacy. Existing ordinances must be strictly enforced.

A combined agricultural and residential land use has always existed at Muir Beach. An important aspect of Muir Beach diversity is the use of land for gardening, full and part-time farming, horse maintenance, and small animal husbandry. Other home occupations include those of professionals and artisans. These activities should be protected as many people have settled here expecting this kind of use. A distinction must be made between the above-mentioned activities, and commercial use, i.e., that which depends on the presence of more than two people at a time, where money or gifts are received from them. Problems of density, water supply, sewage, and traffic, as well as the necessity to preserve the rural character of Muir Beach, preclude commercial use.



Zoning Code
R-A (Muir Beach) District

Application of regulations. The following regulations shall apply to the R-A (Muir Beach) District and shall be subject to the provisions of Chapters 22.66 through 22.74 of Title 22, Marin County Zoning Code.

Uses permitted. The following uses are permitted in the R-A (Muir Beach) district:

1. All uses permitted in R-1 districts.
 2. Small livestock farming; provided, that not to exceed 12 chickens or ducks or pigeons, or similar livestock for lot sizes up to but smaller than 10,000 square feet; that not to exceed 12 chickens, ducks or pigeons, and one adult horse, sheep or female goat or similar livestock and young offspring may be kept on lot sizes from 10,000 square feet up to but smaller than 40,000 square feet, in that quantity for each 10,000 square feet thereof; that for lot sizes of 40,000 square feet and more, in addition one pig or one male goat or one cow may be kept for each 40,000 square feet thereof.
 3. Production of agricultural products.
 4. Accessory buildings and accessory uses.
 5. Sign regulations shall apply as in A-1 district.
 6. Yards required. Yard requirements shall be as in existing applicable zones in Muir Beach.
 7. Building setbacks and site requirements. Shall be as in existing applicable zones in Muir Beach.
 8. Location of livestock accessory buildings and yards. No livestock or any building or yard used in connection with same shall be located or maintained on any lot closer than forty feet to any neighboring dwelling, unless consent is obtained from the neighbor; or closer than 10 feet to any road, not including Highway One.
- In individual non-conforming cases, where livestock has been kept prior to this time, use permits should be granted.

The County Health Code with regard to yard cleanliness will be observed.

Dogs: There are a large number of dog lovers at Muir Beach. These people should bear in mind that their animals are subject to County ordinances with regard to licensing and controlling. Straying dogs are a hazard to ourselves and to our natural surroundings.





199-251-58